

STATEMENT OF PURPOSE

RS18471

In 2000, the US Supreme Court, in *Troxel v. Granville*, overturned a Washington grandparent visitation statute and stated, both directly and indirectly, minimum constitutional standards for such statutes. The existing Idaho statute, §32-719, violates one or more of those constitutional standards. Later, the Idaho Supreme Court, in *Leavitt v. Leavitt*, affirmed that a "clear and convincing" standard of proof was needed in the Idaho statute, at minimum, to pass constitutional muster.

This bill modifies §32-719 to meet the highest possible constitutional standards for grandparent visitation. Until the US or Idaho Supreme Court, or both, address the issue in more detail, using any lesser standards risks having the statute held unconstitutional. Any such revisit of the statute, by either court, will be years in the future. Therefore, this bill takes a conservative approach to guarantee constitutionality of grandparent visitation in Idaho until there is a clear judicial statement that some lesser standard might be allowable.

FISCAL NOTE

This bill will have no fiscal impact.

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